

**CALIFORNIA STATE PERSONNEL BOARD MEETING<sup>1</sup>**

801 Capitol Mall  
Sacramento, California

**Public Session Locations**

**DAY ONE - FEBRUARY 8, 2005**

Cal-Trans - Multipurpose Room  
100 South Main Street  
Los Angeles, California

**DAY TWO - FEBRUARY 9, 2005**

Ronald Reagan State Building - Auditorium  
300 South Spring Street  
Los Angeles, California

**SUMMARY MINUTES FEBRUARY 8-9, 2005**

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<sup>1</sup> The Minutes for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

## **TWO-DAY FULL BOARD MEETING MINUTES**

### **DAY ONE - FEBRUARY 8, 2005**

#### **1. ROLL CALL**

##### **Members Present:**

William Elkins, President  
Maeley Tom, Vice President  
Ron Alvarado, Member  
Sean Harrigan, Member  
Anne Sheehan, Member

#### **2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura**

- A. The State Personnel Board's current (2004-05) budget is approximately \$18.4 million. The SPB closed the first 6 months of the current fiscal with a projected surplus of \$500,000 for the remainder of the fiscal year. Spending will increase slightly in the final months to narrow the surplus.
- B. Construction of two ALJ hearing rooms within the existing SPB building will start in March with a projected completion date of May 2005. Bringing the hearings into the home building will allow the SPB to utilize excess space created by the downsizing of recent years and save approximately \$40,000 a year in rent now paid on leased space on J Street.
- C. The SPB's personnel audit of the Secretary of State has been well received and a hearing will be held during the afternoon session to consider revocation of the SOS's delegated personnel authority.
- D. The CPR process is moving ahead and it is likely that the much discussed consolidation of SPB and Department of Personnel Administration will be part of a new Office of State Management. Hopefully, the proposal, which should be released in the next few weeks, will reflect the proposal submitted by the SPB.
- E. CPS is actively negotiating to buy a private software company. The Executive Officer has raised legal and philosophical questions about the purchase by Cooperative Personnel Services (CPS), a California joint powers agency of which the SPB is one of ten participating agencies. A fuller report will be given at the March meeting with participation from CPS officials.

**3. REPORT OF THE CHIEF COUNSEL - Elise Rose**

**Litigation:**

Connerly v. SPB-- Amicus brief from Product Liability Advisory Council has been accepted by the Supreme Court.

Viero v. SPB/CDF Firefighters-- Trial court denied petition for writ of mandate.

Cornwall v. SPB/CHP – The CAHP has obtained a writ from the Superior Court compelling the CHP to comply with the order of the Board re-instating appellant to his position with the CHP.

**Other:**

Bruce Monfross, Sr. Staff Counsel, SPB Legal Division participated in meeting with Special Master John Hagar in the Madrid case regarding the Skelly process. We have since received notice from Mr. Hagar that he has adopted SPB's position on the issues raised.

We have received a second letter from Mr. Hagar asking for copies of SPB statutes and regulations and inviting SPB to meet to discuss disciplinary hearing process.

SPB Personnel Office has received notice that DPA intends to implement the post and bid provisions in the collective bargaining agreements for, among others, Bargaining Units 1 and 4. These are the provisions at issue in one of the cases pending before the Supreme Court. The trial court had found these provisions unconstitutional. The Court of Appeal reversed. The case has been fully briefed, but oral argument has not yet been scheduled.

SPB's Council of Counsels met on January 31<sup>st</sup> to discuss issues of mutual concern. As a result of a concern raised by one of the participants, the Appeals Division will modify its scheduling of hearings to insure discovery provisions can be utilized in whistleblower cases.

Chief Counsel Elise Rose spoke of current SPB news at the meeting of Chief Counsels of the Labor and Workforce Development Agency and also attended the meeting of Chief Counsels of the State and Consumer Services Agency.

**4. NEW BUSINESS**

Member Ron Alvarado provided a Public Employees Retirement System (PERS) report regarding a recent meeting he attended in Napa. Mr. Alvarado was appointed to the following committees: Investment Committee, Health Benefits Committee, "R Street" Committee. Other items discussed:

- Fund performance is up
- Rate smoothing, tied to actuarial analysis
- Governance – focus on CEO compensation, tied to performance; use more “carrot” than “stick” approach to companies in which invested
- Benefits vs. deferred compensation – The merits of a deferred benefits retirement plan as opposed to a deferred contribution retirement plan will be a major subject of discussion for the PERS Board this year.

## 5. REPORT ON LEGISLATION - Sherry Hicks

**AB 38** - AB 38 proposes suspending the salaries of specific state board and commission members for the fiscal years 2005 through 2009. The State Personnel Board is one of the boards that would not receive salaries for those fiscal years.

**ACTION:** The Board voted unanimously to oppose this bill.

**AB 124** - AB 124 would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in Connerly v. State Personnel Board, and retitle Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from “Affirmative Action Program” to “State Equal Employment Opportunity Program.” In addition, it would clarify and strengthen equal employment opportunity requirements.

**ACTION:** The Board voted unanimously to support this bill.

### CLOSED SESSION OF THE STATE PERSONNEL BOARD

## 6. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.  
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration, California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association, California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court Case No. S125502.

International Union of Operating Engineers v. State Personnel Board, Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA, Sacramento Superior Court No. 04CS00049.

**7. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the Legislature. [Government Code section 18653.]

**8. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor. [Government Code section 18653.]

**9. CALIFORNIA HIGHWAY PATROL - Classification Item**

**ACTION:** The Board adopted the proposal to designate the California Highway Patrol's Automotive Technician II classification as "sensitive" for the purpose of pre-employment drug testing and to revise the minimum qualifications to include a pre-employment drug testing requirement.

**10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**11. SECRETARY OF STATE DELEGATION**

**ACTION:** The Board adopted the proposal to rescind delegated examination and open temporary appointment (TAU) authority from the Secretary of State's office and to require SPB review and oversight of all examinations and open TAU appointments for a 2-year period.

**12. LIMITED EXAMINATION AND APPOINTMENT PROGRAM (LEAP)**

**ACTION:** Matilda Aidam discussed the current state of the program as impacted by position cuts, including efforts to put forth a Budget Change Proposal (BCP) to make LEAP fully functional. A video titled, "The Ten Commandments of Communicating with People with Disabilities" (as referenced during the January 11th Informational Hearing regarding employment of persons with disabilities) was viewed following the presentation.

### **13. LOS ANGELES OFFICE – DEBBIE SANTOS-SILVA**

In response to the need to facilitate the public's access to state civil service employment opportunities within Southern California, the SPB staff presented alternatives for the Board's consideration. The importance of establishing a presence in Los Angeles (LA) County can be substantiated based on the following:

- LA County is the area where the second largest number of state employment opportunities exist. 69 state agencies have offices, institutions, schools and/or hospitals in LA County and employ approximately 23,890 employees. An additional 44,050 employees work in nearby Southern California counties.
- LA County presents unique challenges in attracting qualified applicants due to the inability to compete with the abundance of private sector employers and higher paying public sector jobs.
- LA County serves a diverse population and the State is required to conduct broad and inclusive recruitment to meet its hiring needs in compliance with state law.
- LA County has been identified as an area where the state needs to recruit and hire individuals with bilingual language fluency. The 2003-04 language survey identified the need for state departments to hire 151 bilingual individuals in Los Angeles County alone to be in compliance with the Dymally-Alatorre Bilingual Services Act.

The staff identified three alternatives that would enable the SPB to establish a presence in LA County that could serve the needs of Southern California. The three alternatives identified were presented in the order in which they would best address the state's hiring needs. The alternatives included:

#### **1. Re-establish a Los Angeles Field Office:**

The SPB maintained field offices in Los Angeles and San Francisco for many years. However, due to budgetary reductions, the SPB made the difficult decision to eliminate these offices in 1990. Given the SPB's limited resources and other subsequent budget reductions, it currently has 1.8 PYs in Sacramento allocated to provide employment information and promote state employment throughout the state. In 1999 the SPB opened a self-service Employment Service Center in Sacramento to enable the public to have access to state employment information. The SPB also expanded its Internet Web site to serve as a source of information. However, it has become evident that this limited access has not been effective in meeting the state's hiring needs. Most particularly in other parts of the state, where there is no local access.

The establishment of an office in Los Angeles would accomplish the following:

- Implement localized outreach in response to the state's changing needs.
- Enable the conduct of on-site testing with a small testing center to offer computer-based testing.
- Implement an on-campus college recruitment program.
- Develop partnerships with EDD, County Social Services and Welfare Agencies to promote state careers to economically disadvantaged persons.
- Develop diversity recruitment resources, including expanding the recruitment sources directory, facilitate recruitment of disabled, women and minority groups in compliance with applicable laws. Conduct outreach to identify applicants that possess bilingual language fluency. Work closely with community-based organizations to promote civil service employment opportunities to the diverse segments of the population.
- Provide individuals with local on-site access to state employment information and computers, and to enable in-person assistance.

The SPB would need to submit a Budget Change Proposal (BCP) to accomplish this alternative. The BCP would request 3.5 PYs and \$544,717 first-year and \$477,746 ongoing funding to support this alternative. Clearly this alternative would present the greatest challenges in securing the needed funding. In support of this alternative, the SPB would ensure: (a) the state's ability to meet its ongoing and future hiring needs, and (b) consistency with numerous California Performance Review (CPR) report recommendations that identify the critical need for the state to develop succession planning strategies and effective recruitment initiatives.

## **2. Partnerships with EDD, Local Government & Community-Based Organizations**

The SPB has long recognized the advantages of establishing partnerships with EDD, local government, community-based organizations and amongst state agencies. Consolidated efforts enable each of the entities to accomplish outreach and recruitment with fewer resources and enables localized efforts to be carried out in a consistent manner. While the SPB recognizes the value of these partnerships, it does not have the resources to enable it to organize and participate in this type of cooperative effort. With the identification of minimal resources, the SPB could begin to develop these types of partnerships and actively participate in and expand existing coalitions. These partnerships would enable the SPB to:

- A. Develop and foster ongoing working relationships and partnerships between the 69 state departments in LA county, as well as the numerous other departments that have local offices, institutions, schools and state hospitals in other Southern California counties. These cooperative efforts could enable the state to:
  - Expand existing task forces and groups into Southern California, such as Recruiter's Roundtable
  - Develop cooperative recruitment and outreach efforts
  - Brand and Market state employment as a single entity, rather than department specific brands.

B. Promote state civil service employment opportunities in partnership with entities that serve the local communities:

- Local EDD One-stops and Employment Centers, Workforce Investment Boards and Private Industry Councils
- Local County and City Governments and other public sector employers such as LA Unified School District
- CA Government Jobs Alliance – City and Counties
- Community-based Organizations

These partnerships would bring local government and the state together and enable them to address issues of similar concern, such as:

- Marketing campaigns to promote the challenges and rewards of “serving the public” as a public employee
- Consolidate resources to fund cooperative efforts
- Involve the community in shaping the “face” of government as being diverse and recognizing its multilingual needs

The SPB staff estimate it could accomplish this alternative with the redirection of 1 PY and \$25,000 from within the SPB. Staff recognizes the difficulty of identifying resources to redirect towards this initiative, given the current budgetary situation. While this alternative will only partially respond to state government’s hiring needs, it would require less resources than a field office and could be accomplished without the need for a BCP or other budget augmentation.

### **3. Kiosk or Computer System**

The SPB could facilitate access to state civil service employment information through the use of automation. This would involve the purchase and placement of a kiosk or computer system at various locations throughout LA County and/or Southern California. The use of this type of technology is consistent with other entities approach to providing access to their clientele. The EDD and many local employment organizations utilize kiosks and computer systems for use by the public.

The SPB could utilize kiosks and/or computers to provide public access to state employment and examination information by:

- A. Purchase and place kiosks in one or more locations that provide Internet access to the SPB’s Web site. The cost for a kiosk ranges from \$4,180 to \$5,970, in addition to ongoing monthly charges for maintenance, support and supplies. In researching this alternative, staff discovered that some of the local employment centers have kiosks that are programmed for multilingual users. This would be recommended for the state’s kiosks. The SPB would attempt to place the kiosk(s) in state buildings



and negotiate with DGS to provide space and oversight so that it would not incur any additional costs.

- B. Purchase and place individual computers with Internet access at various public locations to supplement existing computer access. The cost for each computer would be approximately \$800 one-time cost per unit and ongoing cost of \$400 annually for Internet service. The SPB would pursue partnerships with local libraries, schools, EDD and other employment centers, and non-profit agencies. The SPB would provide an additional computer resources at these locations, with the agreement that the entity encourage their clientele to utilize the computer as a means for promoting state employment information.

While both of these alternatives would provide the public with additional access to the state's employment information, they may not be the most effective alternative for accomplishing its overall hiring needs. Should the SPB decide to further pursue this alternative, staff would recommend that it do so on a limited basis by placing one kiosk in the Ronald Reagan state building. This would enable the SPB to evaluate its effectiveness before expanding the number of kiosks and/or computers to other locations.

**ACTION:** The Board adopted supporting Item #2 (finding office space in L.A. - actual cost - \$25K annual)

**VOTE:** Ekins, Tom, Alvarado, Harrigan, Sheehan - Aye

## **A D J O U R N M E N T**

## **TWO-DAY FULL BOARD MEETING AGENDA<sup>2</sup>**

### **DAY TWO - FEBRUARY 9, 2005**

#### **1. ROLL CALL**

##### **Members Present:**

William Elkins, President  
Maeley Tom, Vice President  
Ron Alvarado, Member  
Sean Harrigan, Member  
Anne Sheehan, Member

#### **2. ORAL ARGUMENT**

Oral argument in the matter of **JENNIFER CADY**, CASE NO. 03-3390EA. Appeal from denial of request for reasonable accommodation. Deputy Attorney General IV. Department of Justice.

**ACTION:** Submitted

#### **3. ORAL ARGUMENT**

Oral argument in the matter of **SHARON COHEN**, CASE NO. 03-3389EA. Appeal from denial of request for reasonable accommodation. Deputy Attorney General IV. Department of Justice.

**ACTION:** Submitted

#### **4. ORAL ARGUMENT**

Oral argument in the matter of **NESSLIN CRUZ**, CASE NO. 03-1854A. Appeal from ten-work-days suspension. Employment Program Representative (Permanent/Intermittent). Employment Development Department.

**ACTION:** Submitted

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**5. ORAL ARGUMENT**

Oral argument in the matter of **JOE W. JORDAN**, CASE NO. 03-3389EA. Appeal from dismissal. Youth Correctional Counselor. Department of Youth Authority.

**ACTION:** Submitted

**6. ORAL ARGUMENT**

Oral argument in the matter of **SAMUEL SWEENEY**, CASE NO. 04-0794. Appeal from 20-calendar-days suspension. Correctional Officer. California Institution for Men - Chico. Department of Corrections.

**ACTION:** Submitted

**7. ORAL ARGUMENT**

Oral argument in the matter of **JOHN A. CRUZ**, CASE NO. 04-1376. Appeal from 60-calendar-days suspension. Automotive Equipment Operator I. California Department of Veterans Affairs.

**ACTION:** Submitted

**8. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, & OTHER PROPOSED DECISIONS SUBMITTED BY THE ADMINISTRATIVE LAW JUDGES**

**9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

**10. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF FEBRUARY 23, 2005, IN SACRAMENTO, CALIFORNIA**

**BOARD ACTIONS**

**11. ACTION ON SUBMITTED ITEMS**

These items were taken under submission by the State Personnel Board at a prior meeting and may have been before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

(See Minutes - Page 28)

**12. EVIDENTIARY CASES**

The Board Administrative Law Judges conducted evidentiary hearings in appeals that include, but were not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

**A. BOARD CASES SUBMITTED**

These items were taken under submission by the State Personnel Board at a prior meeting. Cases that were before the Board for vote were provided under separate cover.

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**DANNY BOYD, CASE NO. 03-1537PA**

Appeal from dismissal  
Youth Correctional Officer  
Department of Youth Authority

**ACTION:** Submitted

**DOREATHA FLEMING, CASE NO. 03-2274A**

Appeal from dismissal  
Motor Vehicle Field Representative  
Department of Motor Vehicles

**ACTION:** The Board issued a non-precedential decision finding that because appellant retired from state service prior to the effective date of her dismissal, she is not entitled to a name clearing hearing.

**JOHN FLORES, CASE NO. 03-2588EA**

Appeal of retaliation  
Hospital Peace Officer I  
Department of Mental Health

**ACTION:** Submitted

**HAJI JAMEEL, CASE NO. 04-0330A**

Appeal from dismissal  
Supervising Transportation Engineer  
California Public Utilities Commission

**ACTION:** Submitted

**EDWARD LIMON, CASE NO. 04-0233A**

Appeal from dismissal  
Parole Agent I  
Department of the Youth Authority

**ACTION:** The Board issued a non-precedential decision modifying the penalty imposed on appellant from a dismissal to a suspension for one-year.

**VIRGINIA PARKER, CASE NO. 03-0325A**

Appeal from demotion  
Correctional Lieutenant  
Ironwood State Prison - Blythe  
Department of Corrections

**ACTION:** The Board issued a non-precedential decision finding that appellant was timely served with a Notice of Adverse Action, and remanding the case back to the Administrative Law Judge with instructions to conduct a hearing on the merits.

**PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A**

Appeal from denial of request for reasonable accommodation  
Correctional Sergeant  
Central California Women's Facility - Chowchilla  
Department of Corrections

**ACTION:** The Board issued a non-precedential decision finding that the Department of Corrections improperly denied appellant's request for reasonable accommodation, and directing the Department to transfer appellant to a Correctional Sergeant position located within a 50-mile radius of her current residence.

**B. CASES PENDING**

**Oral Arguments**

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**JENNIFER CADY, CASE NO. 03-3390EA**

Appeal from denial of request for reasonable accommodation  
Deputy Attorney General IV  
Department of Justice

**ACTION:** Submitted

**SHARON COHEN, CASE NO. 03-3389EA**

Appeal from denial of request for reasonable accommodation  
Deputy Attorney General IV  
Department of Justice

**ACTION:** Submitted

**JOHN A. CRUZ, CASE NO. 04-1376A**

Appeal from 60-calendar-days suspension  
Automotive Equipment Operator I  
California Department of Veterans Affairs

**ACTION:** Submitted

**NESSLIN CRUZ, CASE NO. 03-1854A**

Appeal from ten-work-days suspension  
Employment Program Representative (Permanent/Intermittent)  
Employment Development Department

**ACTION:** Submitted

**JOE W. JORDAN, CASE NO. 04-0393A**

Appeal from dismissal  
Youth Correctional Counselor  
Department of Youth Authority

**ACTION:** Submitted

**SAMUEL SWEENEY, CASE NO. 04-0794A**

Appeal from 20-calendar-days suspension  
Correctional Officer

California Institution for Men - Chico

Department of Corrections

**ACTION:** Submitted

**C. CHIEF COUNSEL RESOLUTIONS**

**Court Remands**

These cases were remanded to the Board by the court for further Board action.

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**FRANK OLIVAS, CASE NO. 02-3390C**

The Board instructed the Chief Counsel's Office to prepare a resolution in this matter which is on remand from the Riverside County Superior Court, requesting that appellant and the Department of Corrections submit written briefs regarding the just and proper penalty to be imposed on appellant, given the findings of the court.

**Stipulations**

These stipulations were submitted to the Board for Board approval, pursuant to Government Code, section 18681.

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**PHILLIP BROWN, CASE NO. 03-3341**

Seeking approval of settlement agreement in the position of Janitor with the Employment Development Department.

**ACTION:** The Board issued a resolution approving the stipulation for settlement entered into between the parties.

**MICHAEL GARABEDIAN, CASE NO. 04-1394**

Seeking approval of settlement agreement in the position of Staff Counsel with the Department of Conservation.

**ACTION:** The Board took the proposed resolution under submission regarding the parties' request for Board approval of the stipulation for settlement entered into between the parties. The Board instructed the Chief Counsel's Office to inquire as to the reasons why the Department has agreed to pay the appellant for four years of service during which appellant performed no duties for the Department.

**CORLENE GOI, CASE NO. 05-0019**

Seeking retroactive promotion from the position of Education Programs Assistant to the position of Education Programs Consultant with the California Department of Education and approval of stipulated settlement.

**ACTION:** The Board issued a resolution approving the stipulation for settlement entered into between the parties.

**TIMOTHY DWIGHT GOSE, CASE NO. 04-1120**

Seeking approval of settlement agreement in the position of Fire Apparatus Engineer with the Department of Forestry and Fire Protection.

**ACTION:** The Board issued a resolution rejecting the proposed decision of the ALJ and remanding the case for further findings.

**XIAOMEI MA, CASE NO. 03-2251**

Seeking retroactive promotion from the position of Associated Industrial Hygienist to Senior Industrial Hygienist with the Department of Toxic Substances Control and settlement of merit issue complaint.

**ACTION:** Continued to the March 8-9 Board Meeting.

**Others**

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**ELIA LUTTRELL, CASE NO. 03-0635E**

Seeking issuance of an order to show cause in the position of Transportation Engineering Technician with the Department of Transportation.

**ACTION:** The Board issued a resolution denying appellant's request for an Order to Show Cause against the Department of Corrections.



**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**Proposed Decisions**

These were ALJ proposed decisions submitted to the Board for the first time.

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**REGINALD BOHANAN, CASE NO. 03-2779**

Appeal from five-work-days suspension  
Senior Inspector of automotive equipment  
Department of Highway Patrol

**ACTION:** The Board adopted the ALJ's proposed decision revoking five-work-days suspension.

**ANGELA CERVANTES, CASE NO. 04-2599E**

Appeal from denial of discrimination complaint Office Assistant (Typing)  
California Institution for Men - Chino  
Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision dismissing the complaint of discrimination.

**EMMANUEL DADZIE, CASE NO. 04-1399**

Appeal from dismissal  
Counselor, School for the Deaf  
Department of Education

**ACTION:** The Board adopted the ALJ's proposed decision sustaining the dismissal.

**HAPTNESH EZRA, CASE NO. 04-1357E**

Appeal for whistleblower/retaliation  
Nurse Evaluator III  
Department of Health Services

**ACTION:** The Board rejected the ALJ's proposed decision, and directed the Chief Counsel's Office to prepare a resolution that (1) finds that the Board does not have jurisdiction over workers compensation retaliation complaints; and (2) remands the case to the Chief ALJ for assignment to another ALJ, who shall conduct an evidentiary hearing concerning whether appellant was retaliated against for having appealed a prior Notice of Adverse action.

**FARSHID FOTOOHI, CASE NO. 04-0983**

Appeal from rejection during probation

Registered Nurse

California Institution for Women - Corona Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision denying the appeal from the rejection during probation.

**ALFRED GALICIA, CASE NO. 04-2261**

Appeal from 30-calendar-days suspension

Workers' Compensation Insurance Representative, Range C

State Compensation Insurance Fund

**ACTION:** The Board adopted the ALJ's proposed decision dismissing the appeal.

**MINA M. MINA, CASE NO. 04-1858**

Appeal from rejection during probation

Workers' Compensation Insurance Representative

State Compensation Insurance Fund

**ACTION:** The Board adopted the ALJ's proposed decision denying the appeal from the rejection during probation.

**DEBRA POPE, CASE NO. 03-3722**

Appeal from rejection during probationary period

Program Technician

State Compensation Insurance Fund

**ACTION:** The Board adopted the ALJ's proposed decision denying the appeal from the rejection during probationary period.

**ROBERT RIPANI, CASE NO. 04-2117**

Appeal from a five-percent reduction in salary for three qualifying pay periods

Business Taxes Compliance Supervisor II

Board of Equalization

**ACTION:** The Board adopted the ALJ's proposed decision sustaining the five-percent reduction in salary of three qualifying pay periods.

**DARYL STONE, CASE NO. 04-0279**

Appeal from dismissal

Police Officer I

Department of Developmental Services

**ACTION:** The Board rejected the proposed decision sustaining the dismissal. The case is scheduled for oral argument before the Board. The parties are to brief the issue of what is the appropriate penalty for the proven misconduct.

**Proposed Decisions Taken Under Submission At Prior Meeting**

These ALJ proposed decisions would have been taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**None**

**Proposed Decisions After Board Remand**

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**RUPERTO HERNANDEZ, CASE NO. 04-0914R**

Appeal from ten-percent reduction in salary for ten months  
Disability Insurance Program Representative (Permanent)  
Employment Development Department

**ACTION:** The Board adopted the ALJ's proposed decision sustaining the ten-percent reduction in salary for ten months.

**Proposed Decisions After SPB Arbitration**

**None**

**E. PETITIONS FOR REHEARING**

**ALJ Proposed Decisions Adopted By The Board**

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On February 8, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye.

**PATRICK BARBER, CASE NO. 04-0174**

Appeal from dismissal

Youth Correctional Counselor

Department of Youth Authority

Petition for rehearing filed by respondent to be granted or denied.

**ACTION:** The Board **GRANTED** appellant's Petition for Rehearing. The parties are to brief the issue of whether appellant's actions violated the Department's Use of Force policies. The Chief Counsel's office shall prepare the resolution granting the Petition for Rehearing.

**EDWARD V. DEL RIO, CASE NO. 04-1189**

Appeal From 45-workdays suspension

Caltrans Equipment Operator II

Department of Transportation

Petition for rehearing filed by respondent to be granted or denied.

**ACTION:** The Board denied the Petition for Rehearing filed by appellant.

**RICARDO RODRIGUEZ, CASE NO. 04-0096P**

Appeal of Discrimination complaint

California Department of Corrections

Petition for rehearing filed by respondent to be granted or denied.

**ACTION:** The Board denied the Petition for Rehearing filed by appellant.

**F. PENDING BOARD REVIEW**

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

**JACOB ARIS, CASE NO. 04-1378E**

**AND**

**NICHOLAS RUTHART, CASE NO. 04-1409E**

Appeal of discrimination complaint

Employment Program Representatives

Employment Development Department

Proposed decision rejected January 25, 2005

**No action**

**DAVID BARTON, SPB CASE NO. 04-1434**

Appeal from dismissal  
Associate Hazardous Materials Specialist  
Wasco State Prison - Wasco  
Department of Corrections  
Proposed decision rejected January 11, 2005  
**No action**

**JENNIFER CADY, CASE NO. 03-3390EA**

Appeal from denial of request for reasonable accommodation  
Deputy Attorney General IV  
Department of Justice  
Proposed decision rejected November 3, 2004  
**No action**

**SHARON COHEN, CASE NO. 03-3389EA**

Appeal from denial of request for reasonable accommodation  
Deputy Attorney General IV  
Department of Justice  
Proposed decision rejected November 3, 2004  
**No action**

**JOHN A. CRUZ, CASE NO. 04-1376A**

Appeal from 60-calendar-days suspension  
Automotive Equipment Operator I  
California Department of Veterans Affairs  
Proposed decision rejected February 8, 2005  
**No action**

**NESSLIN CRUZ, CASE NO. 03-1854A**

Appeal from ten-work-days suspension  
Employment Program Representative (Permanent/Intermittent)  
Employment Development Department  
Proposed decision rejected September 14, 2004  
**No action**

**DON DOWLING, CASE NO. 04-1482A**

**AND**

**ROGER HANSON, CASE NO. 04-1523A**

Appeals from dismissal  
Police Officers I  
Department of Developmental Services  
Proposed decision rejected November 3, 2004  
**No action**

**ERNEST J. DURAN, CASE NO. 04-0853**

Appeal from demotion  
Special Agent in Charge  
Department of Justice  
Proposed decision rejected January 11, 2005  
**No action**

**JOE W. JORDAN, CASE NO. 04-0393A**

Appeal from dismissal  
Youth Correctional Counselor  
Department of Youth Authority  
Proposed decision rejected November 3, 2004  
**No action**

**CHAD LOOK, CASE NO. 04-1789**

Appeal from 60-work-days suspension  
Correctional Officer  
Wasco State Prison - Wasco  
Department of Corrections  
Proposed decision rejected January 11, 2005  
**No action**

**MICHAEL MCGUIRE, CASE NO. 04-0490**

Appeal from demotion  
Program Director  
Department of Developmental Services  
Proposed decision rejected December 20, 2004  
**No action**

**KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E**

Appeal from denial of reasonable accommodation and from constructive medical termination  
Office Technician (General)  
Department of Fish and Game  
Proposed decision rejected May 18, 2004  
Pending transcripts  
**No action**

**SAMUEL SWEENEY, CASE NO. 04-0794A**

Appeal from 20-calendar-days suspension  
Correctional Officer  
California Institution for Men – Chico  
Department of Corrections  
Proposed decision rejected October 5, 2004  
**No action**

**ANTHONY VEGAS, Case No. 03-2204A**

Appeal from dismissal

Parole Agent I (Adult Parole)

Department of Corrections - Stockton

Proposed decision rejected November 3, 2004

**No action**

**13. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION**

(See Minutes – Page 30)

**14. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**None**

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

**None**

**C. EXAMINATION APPEALS  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**None**

**D. RULE 211 APPEALS  
RULE 212 OUT OF CLASS APPEALS  
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**None**

**E. REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board would have been presented recommendations by Appeals Division staff for final decision on each request.

**PETITIONS FOR REHEARING CASES**

**None**

**F. PSYCHOLOGICAL SCREENING CASES**

Cases reviewed by Appeals Division staff, but no hearing was held. It was anticipated that the Board would act on these proposals without a hearing.

**None**

**15. NON-HEARING CALENDAR**

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and



organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

**None**

**16. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

The California Department of Corrections proposed revisions to the Minimum Qualifications of the Nursing Consultant, Program Review classification.

**ACTION:** The Staff approved the following: The California Department of Corrections revisions to the Minimum Qualifications of the Nursing Consultant, Program review classification.

**17. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

**A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**None**

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS**

**None**

**18. WRITTEN STAFF REPORT FOR BOARD INFORMATION**

**19. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**A D J O U R N M E N T**

**SUBMITTED**

**TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**No Action**

**VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**No Action**

**TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**No Action**

**HEARING - PSC #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**No Action**

**HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**No Action**

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

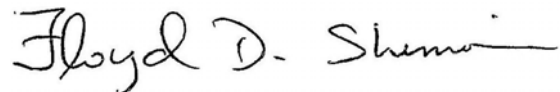
**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on February 8-9, 2005.

VOTE: Tom, Sheehan, Harrigan – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura". The signature is written in dark ink on a white background.

FLOYD D. SHIMOMURA  
Executive Officer  
California State Personnel Board